

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

ENTERED

DEC 15 2004

STATUS DB-LA

PCT

WRITTEN OPINION^{FC}

(PCT Rule 66)

To:
MICHAEL J. MALLIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025

Date of Mailing
(day/month/year)

09 DEC 2004

Applicant's or agent's file reference

P11861PCT

REPLY DUE

within 2 months/days from
the above date of mailing

International application No.

PCT/US02/17381

International filing date (day/month/year)

31 May 2002 (31.05.2002)

Priority date (day/month/year)

15 June 2001 (15.06.2001)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): H04H 9/00; H04N 7/16 and US Cl.: 725/9,14,16

Applicant

INTEL CORPORATION

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☒ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 15 October 2003 (15.10.2003).

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Chris Grant

Telephone No. (703) 305-4700

WRITTEN OPINION

International application No.

PCT/US02/17381

I. Basis of the opinion

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 pages 1-33, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____.
- ☒ the claims:
 pages 34-52, as originally filed
 pages NONE, as amended (together with any statement) under Article 19
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____.
- ☒ the drawings:
 pages 1-12, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
 pages NONE, as originally filed
 pages NONE, filed with the demand
 pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE _____
- ☐ the claims, Nos. NONE _____
- ☐ the drawings, sheets/fig NONE _____

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.

PCT/US02/17381

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The question whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 6-22, 28-44, 50-63, 68-70 and 74-85

because:

- ☐ the said international application, or the said claim Nos. _____ relate to the following subject matter which does not require international preliminary examination (*specify*):

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

- ☒ no international search report has been established for said claims Nos. 6-22, 28-44, 50-63, 68-70 and 74-85.

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

- ☐ the written form has not been furnished or does not comply with the standard.
☐ the computer readable form has not been furnished or does not comply with the standard.

WRITTEN OPINION

International application No.

PCT/US02/17381

IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

- 1. Claims 1-5, 23-27, 45-49, 64-67 and 71-73
- 2. Claims 6-9, 28-31, 50-52, 68-70 and 74-76
- 3. Claims 10-15, 32-37, 53-56 and 77-79
- 4. Claims 16-22, 38-44, 57-63 and 80-85

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-5, 23-27, 45-49, 64-67 and 71-73.

WRITTEN OPINION

International application No.
PCT/US02/17381

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-85</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-85</u>	NO
Industrial Applicability (IA)	Claims <u>1-85</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-5, 23-27, 45-49, 64-67 and 71-73 novelty under PCT Article 33(2) as being anticipated by Hendricks et al. (U.S. Patent No. 6,160,989).

Referring to claim 1, Hendricks discloses receiving content descriptors, which describe content, from a server (see Column 7, Lines 15-17, 21-24 and 65-67 and Column 8, Lines 1 and 44-48 for receiving menu data for programming transmitted from the server).

Hendricks also discloses receiving a trigger signal from the server (see Column 17, Lines 39-42 for generating a subscriber's program access history (demand data) status report in response to the server's polling trigger signal (Column 4, Lines 8-15)).

Hendricks also discloses sending feedback to the server in response to the trigger signal (see Column 17, Lines 49-57 for sending the status report from the set top box to the network controller (server)).

Referring to claim 2, Hendricks discloses establishing a connection from the server (see Column 25, Lines 26-38 for the set-top terminal using an upstream communications path to establish a connection and transmit data to a server (network controller)).

Referring to claim 3, Hendricks discloses using a binary exponential back-off system to establish the connection with the server if the connection to the server cannot be established (see Column 28, Lines 19-38 for using telephone modems over telephone lines are connected to the server for providing an alternate route when a first communication path is congested due to an excess of network traffic, therefore providing a binary exponential back-off system).

Referring to claim 4, Hendricks discloses establishing the connection to the server through a back channel (see the rejection of claim 3, for using a telephone line to provide data to the network controller).

Referring to claim 5, see the rejection of claims 3-4.

Referring to claims 23-27, see the rejection of claims 1-5, respectively.

Referring to claims 45-49, see the rejection of claims 1-5, respectively.

Referring to claim 64, see the rejection of claim 1.

Referring to claim 65, Hendricks discloses generating the content descriptors to describe the content prior to sending the content descriptors to a client (see Column 18, Lines 1-45 for modifying the program control signal sent to the client, therefore generating content descriptors before being sent to the client).

Referring to claim 66, Hendricks discloses determining an order to send the content in response to the feedback received from the client (see Column 32, Lines 27-40 for determining which programming and advertisements is preferred most by a client and are sent to a client based on feedback from the client, therefore sending programming and advertisements to a user in a particular order).

Referring to claim 67, see the rejection of claim 66.

Referring to claims 71-73, see the rejection of claims 1 and 3-4, respectively.

----- NEW CITATIONS -----

WRITTEN OPINION

International application No.
PCT/US02/17381

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.